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OBJECTIONS TO RECIPROCITY

ON

CONSTITUTIONAL AND PRACTICAL GROUNDS

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BY

WILLIAM WHITMAN

BOSTON
THE ROCKWELL AND CHURCHILL PRESS
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OBJECTIONS TO RECIPROCITY.

On the 30th of April, 1903, I made a reply to a circular letter inviting me to become a member of a New England Reciprocity League. In declining the invitation I ventured to say that the declaration in the circular letter, to the effect that a sentiment had been developed in favor of reciprocity "which sooner or later must become irresistible," was, in my belief, without foundation; and that my observation among the business men with whom I associated led me to the belief that the sentiment referred to was confined to two classes — the first including those few whose business interests might be promoted by reciprocity treaties, more particularly a treaty with Canada; and a second and a larger class, including those who were caught by a popular catch-word and had not carefully considered what it signified or how reciprocity would affect the people of the United States as a whole. Further observation and a somewhat careful study of the subject have confirmed these impressions, and I now take occasion to present some of the objections to reciprocity, viewing the subject in its larger aspects, and adding to the arguments advanced in my earlier letter certain others which appear to me to have weight.

RECIPROCITY TREATIES ARE UNCONSTITUTIONAL.

I. The objections to reciprocity are so numerous and so serious that it is difficult to arrange them in any order of relative importance. But first of all, in view of its fundamental character, is the objection that all such treaties are unconstitutional, an objection that I, a layman, would not

venture to raise, but which has been urged by the most eminent constitutional authorities — by Rufus Choate, when he was a senator from Massachusetts; by Justin S. Morrill, the late senator from Vermont; by James G. Blaine, when in Congress, and by many others whose understanding of the Constitution I am bound to accept. The argument was succinctly stated by Mr. Morrill, in a speech delivered in the Senate January 7, 1884, and now so generally forgotten that I quote from it:

"The powers separately and specifically granted by the Constitution to one branch of our government cannot be assumed or held in common by any other branch at its pleasure. The invasion of the jurisdiction of one by another cannot be accounted less than rank usurpation. Any other interpretation of the Constitution would be derogatory, not only to the Constitution itself, but to its far-sighted framers. The President is the Commander-in-Chief of the Army and Navy, but this gives him no authority to invade the power of Congress 'to raise money to support the army and navy.' The President, with the concurrence of two-thirds of the Senate, may make treaties, but under cover of this authority no constitutional treaty can be made 'to regulate commerce with foreign nations,' or to initiate 'revenue bills,' any more than to establish a 'uniform law of bankruptcy,' or 'of naturalization,' and these, together with all other powers which were specially confided to Congress or to the House of Representatives by the Constitution, stand as a flaming sword against all encroachments of the Executive, and forever limit and exclude the reach of its treaty-making power. It appears to me that any treaty which encroaches upon the power of Congress to regulate commerce, or upon that of the House to originate revenue laws, involves a plain, open, and palpable violation of the Constitution."

Forty years earlier, when the Senate had under consideration the Zollverein treaty, in the report of the Committee on Foreign Relations to the Senate, Mr. Rufus Choate, of Massachusetts, who made the report, defined the limitations of the treaty-making power in the following striking words:

"The Committee, then, are not prepared to sanction so

large an innovation upon ancient and uniform practice in respect of the Department of Government by which duties on imports shall be imposed. The convention which has been submitted to the Senate changed duties which have been laid by law. It changes them either *ex directo*, and by its own vigor, or it engages the faith of the nation and the faith of the legislature, through which the nation acts, to make the change. In either aspect it is the President and Senate who, by the instrumentality of negotiation, repeal or materially vary regulations of commerce and laws of revenue which Congress had ordained. More than this: the Executive Department, by the same instrumentality of negotiation, places it beyond the power of Congress to exceed a stipulated maximum of import duties for at least three years, whatever exigency may intervene to require it.

"In the judgment of the committee the legislature is the department of the government by which commerce should be regulated and laws of revenue be passed. The Constitution in terms communicates the power to regulate commerce and to impose duties to that department. It communicates it in terms to no other. Without engaging at all in an examination of the extent, limits, and objects of the power to make treaties, the committee believe that the general rule of our system is indisputably that the control of trade and the function of taxing belong, without abridgment of participation, to Congress. They infer this from the language of the Constitution, from the nature and principles of our government, from the theory of representative liberty itself, from the unvaried practice evidencing the universal belief of all periods and of all parties and opinions. They think, too, that, as a general rule, the representatives of the people sitting in their representative capacity, with open doors under the eye of the country, communicating freely with their constituents, may exercise this power more intelligently and more discreetly; may acquire more accurate and minute information concerning the employments and the interest on which this description of measures will press, and may better discuss what true policy prescribes and rejects than is within the competence of the Executive Department of the government.

"To follow, not to lead; to fulfil, not to ordain the law; to carry into effect, by negotiation and compact with foreign governments, the legislative will when it has been announced upon the great subjects of trade and revenue; not to interpose with controlling influence; not to go forward with too

ambitious enterprise — these seem to the committee to be the appropriate functions of the Executive." [1]

These are weighty words from high authority. They invite a careful consideration of the constitutional provisions upon which Mr. Choate and Mr. Morrill based their conclusions.

Article 2, Section 2 of the Constitution declares that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur;" and Article 6 declares that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

But Article 1, Section 7 of the Constitution declares that "all bills for raising revenue shall originate in the House of Representatives."

And Article 1, Section 8 of the Constitution declares that "The Congress shall have power to lay and collect taxes, duties, imposts, and excises" and "to regulate commerce with foreign nations."

Is there a conflict between the section of the Constitution which defines the treaty-making power and the sections which define the power of the House with reference to revenue bills and of Congress with reference to the levying of taxes and duties and the regulation of commerce?

The principle has been laid down by Story (Section 1508) that "A treaty cannot be construed so as to destroy other powers given in the Constitution." But if the President, by and with the advice and consent of the Senate, may make a reciprocal trade treaty, which changes the rates of duty, is not that a destruction of the power conferred upon Congress by the Constitution to lay and collect taxes and duties?

Based as our Constitution is on English procedure and

[1] This treaty was again referred to the Committee on Foreign Relations in December, 1844, in connection with the President's message on the subject. February 26, 1845, Mr. Archer reported in behalf of that committee that the treaty, viewed simply as a commercial measure, was a desirable step in advance, but, nevertheless, took the ground that it should not be ratified for the reason that the function performed by it was one which in no wise belonged to the President. It was on this ground that the treaty was defeated in the Senate. (Laughlin and Willis on "Reciprocity," 1903, p. 8.)

precedents, it was the evident intent of its framers that the control of the revenues should remain absolute in the hands of the House. In England the Crown may make a treaty, but where it involves a charge upon the people or a change in the laws, it cannot be carried into effect without the consent of Parliament. In like manner, in the balance of power which was ordained by the convention which framed the American Constitution, the House of Representatives was to originate all taxation upon the people. Mr. John Randolph Tucker, in the second volume of his very able work on the Constitution of the United States, declares that this conclusion is absolute. He goes on to say that the people at large dreaded the placing of the tax power in the hands of a majority of the States without regard to their size, and insisted that the power should be in the hands of the States according to the numerical proportion of their population. To give the President, with the advice and consent of two-thirds of the senators present, the power to regulate taxation is to reverse this scheme, and destroy the equilibrium of the Constitution. For in 1790 two-thirds of the States containing a population of 1,685,360 people could ratify a treaty against the other third of the States containing a population of 2,166,419; that is to say, a minority could tax at will the majority.

Not to multiply authorities unduly, the principle that a treaty cannot invade the constitutional prerogatives of the legislature is clearly stated by a German writer, Dr. Ernest Meier, who has given the subject a more elaborate and extended exposition than it has received from any writer in our own tongue.[2]

As to the constitutional provision that "all bills for raising

[2] "Congress has under the Constitution the right to lay taxes and imposts, as well as to regulate foreign trade, but the President and Senate, if the 'treaty-making power' be regarded as absolute, would be able to evade this limitation by adopting treaties which would compel Congress to destroy its whole tariff system. According to the Constitution, Congress has the right to determine questions of naturalization, of patents, and of copyright. Yet, according to the view here contested, the President and Senate, by a treaty, could on these important questions utterly destroy the legislative capacity of the House of Representatives. The Constitution gives Congress the control of the army. Participation in this control would be snatched from the House of Representatives by a treaty with a foreign power by which the United States would bind itself to keep in the field an army of a par-

revenue shall originate in the House of Representatives," it is argued that a treaty is not a "bill for raising revenue" and that the provision has, therefore, no application; but the intent of the framers of the Constitution is clear, and it may be answered that they never contemplated the possibility that a treaty might be negotiated of such a character as to affect the raising of revenue.

But if we waive, for the moment, all consideration of the constitutional provision which gives to the House of Representatives the initiative as regards bills for the raising of revenue, there remains the plain declaration that "the Congress," *i.e.*, the Senate and the House, "shall have power to lay and collect taxes, duties, imposts, and excises" and "to regulate commerce with foreign nations."

Reciprocity treaties plainly relate to the laying and collecting of taxes and duties and the regulation of commerce. Can it be that the framers of the Constitution, in one clause, committed all such questions to the two Houses of Congress, and in another entrusted them under certain conditions to the President and two-thirds of the senators? How did it happen that this apparent conflict of provisions escaped the notice and the criticism of the great statesmen and patriots who framed the Constitution?

Reciprocity Treaties Unknown to the Framers of the Constitution.

The answer is plain. It is that the conflict of provisions is apparent, not real. The framers of the Constitution saw no

ticular size. The Constitution gives Congress the right of declaring war; this right would be illusory if the President and Senate could by a treaty launch the country into a foreign war. The power of borrowing money on the credit of the United States resides in Congress; this power would cease to exist if the President and Senate could by treaty bind the country to the borrowing of foreign funds. By the Constitution 'no money shall be drawn from the Treasury, but in consequence of appropriations made by law;' but this limitation would cease to exist if by a treaty the United States could be bound to pay money to a foreign power. . . . Congress would cease to be the law-making power as is prescribed by the Constitution; the law-making power would be the President and the Senate. Such a condition would become the more dangerous from the fact that treaties so adopted, being on this particular hypothesis superior to legislation, would continue in force until superseded by other treaties. Not only, therefore, would a Congress consisting of two Houses oe made to give way to an oligarchy of President and Senate, but the decrees of this oligarchy, when once made, could only be changed by concurrence of the President and of Senatorial majority of two thirds." Ueber den Abschluss von Staatsverträgen, von Dr. Ernest Meier, Professor der Rechte an der Universität Halle, Leipzig, 1874.

conflict in these provisions, for the reason that reciprocity treaties, in the sense in which the term is now employed, *were then wholly unknown*. This is a consideration which has received little or no attention in discussions of the subject, but I believe it to be illuminating and conclusive. During the middle ages — indeed from the thirteenth century to the nineteenth — the object of the commercial treaties negotiated between different States was to procure for the subjects of those States protection and security when traveling or trading abroad. When treaties began to be framed with actual reference to commerce they were addressed to securing exclusive advantages in favor of the ships or products of the countries concerned. "The idea of conducting a negotiation of this sort on a fair principle of reciprocity is of very late origin" (McCulloch's Commercial Dictionary, 1869). England's commercial treaties from 1642 to the end of the eighteenth century seem to have been founded on diplomatic or political rather than economic grounds. The raising of revenue by customs does not appear to have been considered in connection with the making of treaties. In fact, from the earliest times the commercial clauses in the treaties stipulate free commerce, subject to the payment of the tolls and customs then existing at the various ports according to the so-called "Books of Rates" which were issued from time to time by the reigning sovereigns. The single exception to this otherwise universal rule is the so-called "Methuen Treaty," [3] between England and Portugal, and even this

[3] GREAT BRITAIN'S TREATY WITH PORTUGAL, 27TH DEC., 1703, KNOWN AS THE METHUEN TREATY.

Sect. I. His Sacred Royal Majesty of Portugal promises, both in his own name and that of his successors, to admit forever hereafter into Portugal the woolen cloths and the rest of woolen manufactures of the Britons as was accustomed till they were prohibited by the laws, nevertheless, upon this condition.

Sect. II. That is to say, that Her Sacred Royal Majesty of Great Britain shall, in her own name and that of her successors, be obliged forever hereafter to admit the wines of the growth of Portugal into Britain so that at no time whether there shall be peace or war between the kingdoms of Britain and France any more shall be demanded for these wines by the name of custom or duty or by whatsoever other title, directly or indirectly, whether they shall be imported into Great Britain in pipes or hogsheads or other casks than what shall be demanded from the like quantity or measure of French wine deducting or abating a third part of the custom or duty; but if, at any time, this deduction of abatement of customs, which is to be made as aforesaid, shall in any manner be attempted and prejudiced, it shall be just and law-

seems to have been made on political rather than on economic grounds.

It may be affirmed confidently, therefore, that there was no conflict in the minds of the framers of the American Constitution between the provisions which I have cited, because there had not entered into their experience or come within the scope of their knowledge anything like the modern reciprocity treaty, with its direct bearing upon the revenue, and its modification or abolition of duties. Had they foreseen such instruments, doubtless they would have provided for them, and that in a way to avoid all possible conflict or collision of authority.

But it would appear that the greatest statesman and patriot of them all, George Washington,[4] did not favor exclu-

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ful for His Sacred Majesty of Portugal again to prohibit the woolen cloths and the rest of the British woolen manufactures. (The above sections taken from Hertlet's Collection of Treaties.)

[4] The question of the relation of the House of Representatives to the making of treaties arose during President Washington's administration, although not with reference to customs and duties. The question turned upon the treaty with Great Britain, which was negotiated in 1794, ratified October 28, 1795, and proclaimed February 29, 1796. The treaty was vehemently opposed because of the conduct of Great Britain in persevering in the impressment of American seamen and the seizure of American vessels. A copy of the treaty was transmitted to Congress, March 1, 1796. The House, March 24, 1796 (Journal of the House of Representatives, 1796), by a vote of 62 to 37, adopted the following resolution:

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the minister of the United States who negotiated the treaty with the King of Great Britain (communicated by his message of the 1st inst.), together with the correspondence and other documents relative to the said treaty, excepting such of the said papers as any existing negotiations may render improper to be disclosed."

The President refused to comply with this request. (Messages and Papers of the Presidents, Vol. I., pp. 194–6. Also Journal of the House of Representatives, 1796.) In his message conveying his refusal, he grounded his action on the fact that the nature of foreign negotiations requires caution, and their success must often depend upon secrecy; that, even when concluded, a full disclosure of all demands, concessions, etc., would be impolitic; that the papers asked for were not relative to any purpose under the cognizance of the House; and, further, that the treaty-making power is vested exclusively in the President and Senate; that the assent of the House is not necessary to the validity of a treaty; and that the treaty with Great Britain exhibits in itself all the objects requiring legislative provisions.

Even when thus rebuffed the House did not recede from its position. April 7 it adopted the following resolutions, the first by a vote of 54 to 37, and the second by a vote of 57 to 35:

"*Resolved*, That it being declared by the second section of the second article of the Constitution "That the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two-thirds of the Senators present concur," the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress, and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty

sive trade arrangements, for we find him saying in his Farewell Address, September, 1796:

"Harmony and liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing."

Before passing from this part of the discussion, it is to be observed that, in amending the reciprocity treaty with Cuba, the Senate recognized a part of the principle here contended for, by providing that before the treaty became effective it should receive the approval of Congress. But does this meet the constitutional objection? This treaty did not "originate" in the House, but came from the office of the Secretary of State. And again, if it was a valid treaty, what possible control over it had the House? The Constitution provides that all treaties shall be made by the Executive and ratified by a two-thirds vote of the Senate. The House can neither amend nor defeat a treaty under the Constitution. The functions and powers of the President are executive only. He may recommend legislation, but he cannot initiate it. Except under the explicit authorization of Congress he cannot constitutionally negotiate trade treaties which alter existing laws or limit the operation of new ones. To concede to him this right would be, in effect, to concede to him law-making powers. It would not only embarrass Congress in its work of legislation, but it would disturb that nice adjustment and balancing of functions and prerogatives which the framers of the Constitution provided. There appears to exist the

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into effect, and to determine and act thereon as in their judgment may be most conducive to the public good.

"*Resolved*, That it is not necessary to the propriety of any application from this House to the Executive for information desired by them, and which may relate to any of the constitutional functions of the House that the purpose for which such information may be wanted, or to which the same may be applied, should be stated in the application."

To these resolutions the President made no reply, but it is significant of the lingering resentment of the House that it was by the close vote of 51 to 48 that the laws necessary to carrying the treaty into effect were enacted April 30, 1796.

strangest confusion as to the distinct functions of the several branches of the government. "What is the Constitution between friends?" was once asked, and it may seem old-fashioned to raise such a question now. But it has more practical pertinence than lies in a mere regard for the spirit and letter of our organic law, and I pass to a second objection to show this.

THEY SUBSTITUTE DIPLOMACY FOR LEGISLATION.

II. Reciprocity treaties are the substitution of diplomacy for legislation in fixing the customs duties upon which our revenues and our industries depend. They propose that a few plenipotentiaries or agents, sitting behind closed doors, shall determine what duties shall be raised, lowered, or removed, what industries shall be specially favored, and what other industries shall suffer, in order that the fortunate ones may secure these special favors. That these agents may know little about industrial conditions has been shown in the French treaty and in the Argentine treaty, both of which "sleep the sleep that knows no waking" in the pigeon-holes of the Senate. That they may be willing to sacrifice one industry to help another has been proved by those treaties.

In an able tract, attributed to Mr. Eden, afterward Lord Auckland, published in 1787 (Historical and Political Remarks on the Tariff of the French Treaty), there is the following outline of the qualifications necessary to the negotiator of a commercial treaty: "Besides a general knowledge of the trade and reciprocal interests of the contracting parties, he ought to be precisely acquainted with their several kinds of industry and skill, to discover their wants, to calculate their resources, and to weigh with nicety the state of their finances and the proportionate interest of their money; nay, further, he should be able to ascertain the comparative population and strength of each country, together with the price and quality both of first materials and also of the labor bestowed upon them. For this purpose he should inquire into the operations of every class of merchants and manufacturers con-

cerned in the trade, should consult their expectations on each of its several branches, and collect their hopes and fears on the effect of such a commercial revolution on the competition of rival nations." Commenting upon this passage in his "Commercial Dictionary," Mr. McCulloch remarks that if Mr. Eden had concluded by saying that no individual or number of individuals ever possessed, or ever would possess, the various qualifications which, in his estimation, were required in negotiating a good commercial treaty, "he would only have affirmed what is most certainly true."

Very little reflection will make it clear that the very processes which are desirable and necessary in framing a diplomatic or political treaty are precisely those which are most unsuited to arrangements which affect the industries and the revenues of a nation. A treaty is negotiated in secret between agents of the countries concerned. When the negotiations are completed, it is transmitted to the Senate, and, with its contents undisclosed, it is referred to the Committee on Foreign Relations — a committee which has no official responsibility for domestic business and industrial conditions, and possibly only an inadequate knowledge of them. By the Committee on Foreign Relations the treaty is reported to the Senate. It is debated there, if at all, in secret executive session. It must be accepted or rejected in its entirety, unless new negotiations are to be opened with the other government concerned. Its contents are sedulously guarded from public knowledge to the last moment; and, if it is ratified, it is only after that final step has been taken that the public is made acquainted with its provisions. Yet, if the instrument be a reciprocity treaty, the interests of hundreds of millions of dollars of invested capital and of hundreds of thousands of American wage-earners may be put in jeopardy by concessions and compromises made in the dark, — made by individual negotiators who may have been ignorant or who may have been moved by self-interest, — made, up to the final stages, without scrutiny or debate or even the poor chance of protest by the real and direct representatives of the people.

Does not even this cursory survey of the process of treaty-making make it clear that all laws, or compacts having the force of laws, which affect the revenue or the laying of duties and customs and the regulation of commerce should either be initiated by the House of Representatives or be subject to the approval of both House and Senate, as the Constitution plainly provides?

THEY ARE A HANDICAP ON GENERAL TARIFF REGULATION.

III. Special commercial treaties must of necessity handicap the United States in its commerce with nations with which it has no such treaties. They must embarrass any readjustment of the customs tariff and all revenue and financial legislation. The United States should never surrender the right to independent and unrestricted legislation with reference to its own affairs at any and all times. There was force in what President Cleveland said upon this point in his first message to Congress in 1885:

"Moreover, embarrassing questions would have arisen under the favored nation clauses of treaties with other nations. As a further objection, it is evident that tariff regulation by treaty diminishes the independent control over its own revenues which is essential for the safety and welfare of any government."

THEY INVOLVE DISCRIMINATION AND INEQUALITIES.

IV. Reciprocity is defined in the law books as a compact between nations, under which the citizens of each are guaranteed certain commercial privileges at the hands of the other. Commercial treaties were first devised by Great Britain for the purpose of extending her foreign trade, and they were generally of such a character that England profited at the expense of her weaker commercial rivals. At a later date, in the English-French treaty of 1860,[5] a new feature was added, known as "the most favored nation clause," under

[5] The convention of November 16, 1860, between Great Britain and France, supplementary to the treaty of commerce of January 23, 1860, contained the following as its fifth article:

"Each of the high contracting powers engages to extend to the other any favor, any privilege or diminution of tariff, which either of them may grant to a third power in regard

which it was provided that if either nation, party to a treaty, should subsequently grant to a third party conditions more favorable in any respect, the other should have the benefit of them. Under this clause a special concession made in favor of any one nation at once inured to the benefit of all with which the contracting nation had commercial treaties. This is intelligible as applied to nations situated like those of Europe, but it is very different from the reciprocity advocated in this country, which ignores the "most favored nation clause" altogether, and which discriminates between nations equally friendly to us, and is, therefore, a sharp and dangerous departure from our traditional policy — a departure which would certainly land us in a war of reprisals to which there would be no end, and out of which there could come no commercial advantage.

They are most Unjust towards our Best Customer.

I will give an illustration. France enforces against us her maximum tariff, while giving to many of our competitors in her markets the benefit of the much lower rates of her minimum tariff. Under the Kasson reciprocity treaty, France consented to reduce a few of these duties upon certain articles imported from this country, in no case to the minimum rates accorded other countries. In return, we bargained to admit, at 20 per cent. reduction from our uniform duties, a number of manufactured articles which France produces in common with many other countries. Of course, our imports of these articles would thereafter have been exclusively of French origin, notwithstanding the fact that France was continuing

to the importation of goods mentioned or not mentioned in the treaty of the 23d of January, 1860."

An interesting construction of the meaning of the "most favored nation" clause is found in the treaty of 1862, between the United States and Ecuador. It is contained in article 34:

"It is further agreed that the words 'most favored nation' that occur in this treaty shall not be so construed as to prevent either of the contracting parties from concluding any treaty or convention with any other nation or state it may think proper, as freely and as fully as though said words were not used.

"*Provided*, That citizens of the United States are on an equal footing in Ecuador in respect to navigation and commerce with subjects of Spain and citizens of Mexico and other Hispano-American states, and that citizens of Ecuador enjoy in the United States the same rights and privileges as to navigation and commerce as citizens of the United States in Ecuador."

to enforce against us higher customs duties than against other nations, on the great bulk of our exports to that country. All our gain would have been confined to the few industries, or possibly to the single industry, whose representatives were so fortunate as to participate in the secret councils of the negotiators of this treaty.

To accomplish this gain, which is infinitesimal, what should we have lost? Almost certainly we should have sacrificed the commercial good will of Great Britain. That nation is not only our best customer, but is worth more to us than all other customers combined. She takes more than 50 per cent. of all our exports of every kind and description. On the other hand, she manufactures many of the products which this treaty would admit from France under conditions which would shut out altogether like goods from Great Britain. England could not overcome this discrimination by negotiating a similar reciprocity treaty with us, because she already admits all American products, whether of agriculture or manufacture, except tobacco and spirits, absolutely free of customs, duties, and restrictions. The attempt to extend our foreign trade by such discrimination is absurd and indefensible as a national policy. We should regard any business man who proposed such a contract with a small customer, against the interests of his largest customer, as a fit candidate for the lunatic asylum. We can cripple and embarrass our foreign trade by such treaties; we can never extend it.

Let me give another illustration from the Argentine reciprocity treaty. This treaty provided for a 20 per cent. reduction in the duty on hides, sugar, and wool coming from that republic to this. The hide duty is 15 per cent.; under the treaty it would have become 12 per cent. — too small a matter to be worth consideration. But on South American wools a reduction of 20 per cent. would have given them a tremendous advantage against the competing wools of Australia, a dependency of Great Britain, which country would have found in the ratification of this treaty a serious trade grievance. And what did the Argentine Republic give in return? A reduction of 50 per cent. in her duties on a

few canned goods, paraffin wax, and wind-mills! There was also a 20 per cent. reduction on oatmeal and a few other cereal foods. It was a most amazing treaty, in its inconsequential character, so far as concerned any commercial gain to us. We were expected, I suppose, to make up what we sacrificed in the good will of our Australian customers by an enormous growth in the sale of wind-mills in the Argentine! "The mountain labored and brought forth a mouse!"

The true policy is to prevent any one foreign country from getting an advantage over another in our markets. Moreover, with one country selling us, under reciprocal trade concessions, an article of which it could furnish only a partial supply, the home consumer would not be benefited. As Professor Taussig puts it: "It may be laid down that any remission of duty which does not apply to the total importations, but leaves a considerable amount coming in under the duty, puts so much money into the pockets of the foreign producer."

THEY ARE FREE TRADE IN DISGUISE.

V. Reciprocity is a thinly disguised movement in the interest of free trade. As such, it is open to the charge of being an attempt to secure, by indirection, what its advocates are unwilling, for some reason, openly and honestly to propose. Protectionists should not be caught in such a trap; but that some of them have been caught is unfortunately not to be denied. It is due, probably, to a failure to reason the matter out to its logical conclusion. If reciprocity with one nation is a good thing, it must be a good thing with other countries; and we are bound to continue to negotiate such treaties, until all nations are included which maintain any customs barriers against us. Thus, in the end, we should be granting special favors to all nations except the two — England and the Netherlands — which now give us substantially free trade, and against which we should be enforcing our highest duties. But this is not the worst of it: we should find ourselves with a tariff system in which different

rates of duty applied to the same article from different countries; with a total absence of similarity and uniformity in these duties, a hodge-podge of conflicting and contradictory rates, enormously difficult of administration, and provocative of interminable discriminations, bickerings, heart-burnings, and commercial complications. The ultimate outcome is a return to mediæval conditions of commerce. These are the logical results of tariff revision by indirection, that is to say, by commercial treaty instead of by Congressional legislation. I think the advocates of reciprocity have not followed their theory to its natural conclusion.

When the question of giving notice to abrogate the treaty of 1854 was pending in the Senate, Senator Thomas A. Hendricks, of Indiana, in taking position against the giving of such notice to abrogate, said:

"There is another feature about this treaty that I like. It provides to a very considerable extent for free trade between us and a neighboring province. I like that. I believe that the civilization of the world will come up to that standard which will secure *free trade the world over*. Let trade regulate itself, let each nation support its own revenues from its own people. I believe we shall some time come to that standard. The fact that Canada is a province lying just alongside our territory is a reason why I like free trade between that province and our own country. The fact that this treaty secures free trade is a circumstance in favor of it in my judgment."

Mr. Henry Fawcett, M.P., and Professor of Political Economy in the University of Cambridge, writing in 1878 said:

"The opposition which is at the present time offered to the negotiation of commercial treaties has undoubtedly caused surprise and disappointment to the advocates of free trade. When the commercial treaty between France and England was negotiated, it was confidently anticipated that through the agency of such treaties a *very powerful stimulus would be given to the progress of free trade.*"

Do these gentlemen of the present day who protest that they are tariff supporters, and not believers in free trade, see

more clearly than the two quoted? Or were these two distinguished publicists and statesmen mistaken in the views they held of the tendency of such treaties? Or were they simply more frank and honest?

If the existing tariff is not satisfactory to the American people, it is their prerogative to revise it, in whole or in part. But when they come to that work they will not make of it a coat of many colors — a patchwork quilt of differing and discriminating rates. They will treat all nations alike, just as they expect to be treated by other nations. They will be straightforward, and not proceed by indirection. They will make one law for the whole country and for all countries.

DEVELOPMENT OF FOREIGN TRADE.

VI. There are certain principles which govern the development of foreign trade which require to be stated because, simple and obvious though they are, they are often overlooked:

The Foreign Demand.

(*A*) The needs of the world outside of ourselves are already supplied to the extent of the world's purchasing power. Every man in every country can have what he wants of the world's goods provided he is able to pay for them.

(*B*) Such needs or wants may be hereafter increased by

(1) An increase of population.

(2) Agricultural failure or famine in some countries, which would temporarily increase specific needs.

(3) Increased wealth in some countries, caused by internal development, which would create new wants and at the same time increase the power of gratifying old wants.

(4) Those countries which now supply other markets than their own will contest for the retention of such markets to the extent of their ability. They will also compete as vigorously as they can for any natural increase of markets and for any new markets.

(5) Strong manufacturing countries cannot be expected to furnish markets for the manufactured products of other coun-

tries, except in a limited way to the specialties of such countries, or to such manufactured products as may be said to be indigenous to such other countries. Manufacturing countries are to be looked to mainly for markets for food and other natural products.

(6) Purely agricultural or non-manufacturing countries are to be looked to chiefly for markets for manufactured products, and also for natural products which they themselves cannot supply.

(7) The aim of most civilized countries is to become manufacturing countries. National progress goes hand in hand with the development of the nation's manufactures.

The United States Supply.

(*C*) We can only supply other markets with such products as we cannot ourselves use or consume. It is the surplus above our own requirements which must furnish our exports.

(*D*) Production cannot be secured at will, but by growth and development.

(*E*) We can secure an increased share of the existing trade with foreign countries only as follows:

(1) By underselling competitors or offering additional advantages or inducements to them. This requires a lower cost of production than that of our competitors to make the business profitable.

(2) By supplying substitutes for what our competitors are supplying that shall be better than their products.

(*F*) We can secure a portion of any increased demand from foreign countries:

(1) By studying the nature of the demand and meeting all its requirements on at least even terms with our competitors. As regards a large majority of manufactured products, this involves manufacturing especially for the foreign trade, to the exclusion of domestic, which few, if any, manufacturers are willing to hazard.

(2) By introducing into foreign markets products which are specialties of American growth or manufacture.

(*G*) Increased exports can be secured permanently only in such articles as we can produce or manufacture more cheaply than our competitors in foreign markets. This applies to natural as well as to manufactured products. In any event nothing is to be gained by sending abroad what we could consume at home.

(*H*) Increased imports are to be looked for only in those articles which do not compete with our own products or which we cannot produce to advantage. Nothing is to be gained by buying abroad what can be produced at home.

Foreign Trade is not an Unmixed Blessing.

(*I*) The advocates of commercial treaties contend that they would extend our foreign trade, lower the price of products, and thereby reduce the cost of living to consumers. This is fallacious reasoning. Foreign exports enhance home prices. The greater and more active the foreign demand the higher will home prices be, and vice versa. What is gain to the producer for export is loss to the consumer at home. It will be found that this applies especially to articles of food, the products of the farm, which we export to foreign countries. The foreign demand for animal and vegetable products has made their export profitable, and there has been, accordingly, a large increase in their sale in foreign markets. But this demand has resulted in higher prices at home. Had there been no such demand, the prices of such products at home would have been lower. The producer has profited by higher prices, but the consumer has paid more. It is inevitable that an increased foreign trade in American products should enhance the prices of such products to the home consumer. This follows from the regular operation of the law of supply and demand. Increase the demand, from whatever quarter, and prices rise.

OUR FOREIGN TRADE IS SATISFACTORY.

VII. I can find no cause for discontent in the condition of our foreign trade. It has doubled since 1879. It has

grown faster than that of any other nation, both absolutely and relatively. It represents to-day the largest export trade of any nation.

The extraordinary advance of our export trade is the phenomenon of the world's commerce. It has come about under existing laws, and it contains a justification and vindication of those laws which make any attempt to defend them superfluous. It has excited among our European competitors apprehension and alarm which are no longer disguised. It is a commerce in which all parts of the country and all lines of industry participate in their proper proportions. While it is due largely to the development of our agricultural resources, in which New England has been forbidden by nature to partake, it has none the less been increasingly shared by our manufacturing interests, in which New England has a stake equal to, if not greater than that of any other section.

Indeed, the most striking feature of our trade statistics is the rapidity with which exports of manufactures have grown during the last few years. Ten years ago the value of our manufactured goods sold abroad was barely more than one-fifth of the total value of all exports; but in the fiscal year 1904, their value was nearly a third of the total. In July, 1904, manufactures formed nearly one-half of the total — 48.27 per cent. of the domestic exports of all kinds. In May, June, and July, 1904, manufactured exports actually exceeded agricultural by nearly fifteen million dollars.

From the July, 1904, report of the Department of Commerce and Labor, through its Bureau of Statistics, I quote two tables. The first divides the manufactured goods exported into ten great groups, which constitute about 80 per cent. of the total value of manufactures exported, and shows the value of exports of each in the fiscal years 1870, 1890, and 1904.

EXPORTS OF PRINCIPAL MANUFACTURES, 1870, 1890, AND 1904.

	1870.	1890.	1904.
Iron and steel	$13,483,163	$25,542,208	$111,948,586
Mineral oils	30,431,668	44,658,854	72.487,415
Copper	504,741	2,349,392	57,142,079
Leather and manufactures	673,331	12,438,847	33,980,615
Agricultural implements	1,068,476	3,859,184	22,749,635
Cotton manufactures	3,787,282	9,999,277	22,403,713
Chemicals, etc.	3,118,984	5,424,279	13,355,694
Wood manufactures	2,613,715	6,509,645	12,980,112
Parafin	374	2,408,709	8,859,964
Paper and manufactures	514,592	1,226,686	7,543,728

The second table shows the imports of manufacturers' raw materials in the same years.

IMPORTS OF MANUFACTURERS' RAW MATERIALS, 1870, 1890, AND 1904.

	1870.	1890.	1904.
Fibers, unmanufactured	$6,043,102	$20,541,767	$37,814,285
Silk, raw	3,017,958	24,331,867	46,100,500
India rubber and gutta-percha	3,459,665	14,854,512	42,214,219
Hides and skins	14,402,339	21,881,886	52,006,070
Furs and fur skins	2,236,229	2,165,213	9,005,873
Chemicals, drugs and dyes	20,573,832	41,601,978	65,272,176
Wool, raw	6,743,350	15,264,083	24,813.591
Cotton, raw	331,573	1,392,728	9,387,331
Wood, unmanufactured	670,131	13,518,310	20,490.058
Tin in bars, blocks, etc.	1,984,238	6,898,909	21,486,311

These comparisons show that the total value of our exports of manufactures has risen in thirty-four years from about $68,000,000 to $452,000,000, or more than six-fold. Yet the advocates of reciprocity talk of "the necessity of extending our trade relations" through reciprocity treaties. The truth is that our trade relations are in process of natural extension, as rapid as the development of our facilities for production, and unaided by special privilege anywhere.

The United States occupies so commanding a position in the agricultural, industrial, and commercial worlds, and has

resources so nearly unlimited, that it is under no necessity for seeking to extend its foreign trade by special bargains with foreign nations. It consumes twice as much iron ore as Great Britain. It makes more steel than Great Britain, Germany, and France combined. Its coal fields are sixteen times as extensive as those of Great Britain. It produces more than four-fifths of the world's supply of cotton, and consumes three-tenths of the world's cotton in its factories. It produces more than 10 per cent. of the world's supply of wool, and its manufactures of wool have a value of nearly $300,000,000 annually. Arrivals and clearances of vessels on the Great Lakes represent an annual tonnage of more than 61,000,000, and the coastwise trade of the United States employs a tonnage of more than 5,000,000. Two-fifths of the entire railway mileage of the world is operated within the limits of this country. These and other statistics of the material development of the United States do not suggest a nation which has need to resort to the bargain counter to extend its foreign trade.

NO POPULAR DESIRE FOR RECIPROCITY.

VIII. That there is no popular desire for reciprocal trade agreements may be inferred from the fact that during our whole national history only twenty such agreements have been made, and of these only five are now in force. The policies defined and carried out by political parties are but the expression of the popular will, so far as the shrewdest political leaders are able to discover and interpret it. If there were a popular demand for reciprocal trade agreements; if there were a widespread conviction that such arrangements promoted the material prosperity of the nation, it would be impossible that such a demand could be long withstood. The few and for the most part unimportant experiments which have been made with reciprocity, and the brief periods for which most of these experiments have been tolerated, furnish sufficient proof of the absence of any popular demand for them.

EXPERIENCE AGAINST RECIPROCITY.

IX. This absence of popular demand for reciprocity is easily explained. It rests upon the secure basis of experience. It is because most of the reciprocal arrangements we have made have worked not well, but ill, that there is no strong desire for an extension or repetition of them. Reciprocity is not altruism. It is not the practice of philanthropy. It is a bargain, each party to which hopes to derive as large an advantage from it as the other. American advocates of reciprocity urge it as a means of enlarging American markets. We can afford, it is argued, to make some concessions to foreign producers if, by reason of such concessions, we may be able to sell more goods in foreign markets. This being the argument, it is fair to inquire to what extent it is sustained by the facts — how largely, if at all, the foreign market for American goods has been extended by the reciprocal agreements which we have made. The test, of course, is a comparison of exports from the United States to the countries with which reciprocity treaties or agreements have been made before, during, and after such arrangements. I invite attention to such a comparison, which I make on the basis of the official reports of the foreign commerce of the United States. The details of this comparison I append in footnotes, premising that I have not selected the figures but have given them impartially for all the agreements, with the single exception of the latest treaty with Cuba which has not been in operation long enough to admit of comparisons. In each case I give the total exports from the United States to the country affected for the year before the agreement went into effect, for the first year of its operation, and for the year after the treaty expired — if it has expired. The figures are for the fiscal years ending with June 30, and as the dates upon which arrangements took effect vary, there is inevitably some interlapping, but as the life of the agreement is in each case indicated, there is no chance for misunderstanding upon this point. Let us see what these figures show:

British North America.[6]

The reciprocity treaty with Canada ran from March, 1855, to March, 1866. It provided for the free admission into the United States from Canada, and the free admission into Canada from the United States, of breadstuffs, provisions, live animals, fruits, fish, poultry, hides and skins, furs, stone, ores, and metals, timber and lumber, unmanufactured cotton, flax and hemp, and unmanufactured tobacco, the list of articles being identical for each country. To what extent did this treaty extend the market for American goods in Canada? During the first year of its operation, exports from the United States to Canada increased by about $1,200,000, but the next year they fell off nearly $5,000,000. Only once thereafter were they so large as in the year before the treaty, and during the last year of the operation of the treaty Canada bought of the United States $4,300,000 less goods than in the year before the treaty went into effect.

The Hawaiian Islands.[7]

The treaty with the Hawaiian Islands ran from September, 1876, to April, 1900. Its conditions were exceptional, for it provided for the free admission into the United States of sugar, molasses, and other of the principal tropical productions of the islands, and for the free admission into the islands of bread-

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[6] BRITISH NORTH AMERICA.

(*Period of Treaty, March 16, 1855–March 17, 1866.*)

Year before (1855)	$27,741,808
First year (1856)	29,025,349
Second year (1857)	24,138,482
Third year (1858)	23,604,526
Fourth year (1859)	28,109,494
Fifth year (1860)	22,695,928
Last year (1866)	23,439,115
Year after (1867)	20,163,653
Second year after (1868)	22,901,964

[7] HAWAIIAN ISLANDS.

(*Period of Treaty, September 9, 1876–April 30, 1900*).

Year before (1876)	$779,257
First year (1877)	1,272,949
Last year (1900)	13,509,148

stuffs, provisions, manufactures, and general merchandise from the United States. The political conditions also were exceptional, for the forces which dominated the islands were American, and the influences which, a little later, were destined first to give the islands a republican form of government and then to constitute them an integral part of the United States were already at work. To the United States was given a practical monopoly of Hawaiian trade, and American exports to the islands rose from about three-quarters of a million dollars in the year before the treaty took effect to thirteen and a half millions in 1900.

Reciprocity Agreements under the Act of 1890.[8]

Twelve reciprocity agreements were made under the Act of 1890. Their provisions may be briefly summarized as follows:

With Brazil the agreement provided for the free admission

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[8] CUBA.

(*Period of Agreement, September 1, 1891–August 27, 1894.*)

Year before (1891)	$12,224,888
First year (1892)	17,953,570
Year after (1895)	12,807,661

PORTO RICO.

(*Period of Agreement, September 1, 1891–August 27, 1894.*)

Year before (1891)	$2,155,234
First year (1892)	2,856,003
Year after (1895)	1,833,544

GUATEMALA.

(*Period of Agreement, May 30, 1892–August 27, 1894.*)

Year before (1892)	$1,851,352
First year (1893)	1,763,862
Year after (1895)	2,665,408

HONDURAS.

(*Period of Agreement, May 25, 1892–August 27, 1894.*)

Year before (1892)	$515,224
First year (1893)	471,695
Year after (1895)	645,781

NICARAGUA.

(*Period of Agreement, March 12, 1892–August 27, 1894.*)

Year before (1892)	$1,307,179
First year (1893)	937,859
Year after (1895)	1,073,467

into the United States from Brazil of sugar, molasses, coffee, and hides, and the free admission from the United States into Brazil of breadstuffs, pork, fish, cotton-seed oil, coal, agricultural implements, machinery for mining and manufacturing, mechanical tools, material for railway construction, and numerous other articles, the product of the United States; also for a 25 per cent. reduction in the rates of duty on certain other articles, including provisions, manufactures

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SALVADOR.

(*Period of Agreement, February 1, 1892-August 27, 1894.*)

Year before (1892)	$1,294,268
First year (1893)	1,138,430
Year after (1895)	1,260,628

BRITISH WEST INDIES.

(*Period of Agreement, February 1, 1892-August 27, 1894.*)

Year before (1892)	$8,130,257
First year (1893)	8,044,846
Year after (1895)	7,764,178

SANTO DOMINGO.

(*Period of Agreement, September 1, 1891-August 27, 1894.*)

Year before (1891)	$1,023,751
First year (1892)	1,019,456
Year after (1895)	1,361,067

BRAZIL.

(*Period of Agreement, April 1, 1891-August 27, 1894.*)

Year before (1891)	$14,120,246
First year (1892)	14,291,873
Year after (1895)	15,165,079

BRITISH GUIANA.

(*Period of Agreement, April 1, 1892-August 27, 1894.*)

Year before (1892)	$1,933,299
First year (1893)	2,000,675
Year after (1895)	1,705,631

AUSTRIA-HUNGARY.

(*Period of Agreement, May 26, 1892-August 27, 1894.*)

Year before (1892)	$1,527,980
First year (1893)	571,037
Year after (1895)	2,125,772

GERMANY.

(Under Act of 1890.)

(*Period of Agreement, February 1, 1892-August 24, 1894.*)

Year before (1892)	$105,521,558
First year (1893)	83,578,988
Year after (1895)	92,053,753

of iron and steel, leather, lumber, furniture, wagons and carriages, and manufactures of rubber.

With Cuba and Porto Rico the agreement provided for the free admission into the United States from Cuba and Porto Rico of sugar, molasses, coffee, and hides, and the admission into the islands from the United States, free of duty, of salted meats, fish, lard, woods for cooperage, and manufactured into doors, frames, etc., wagons and carts, cars for railways, sewing machines, manufactures of iron and steel, oats and forage, and numerous other articles, the product of the United States; also corn and meal at 25 cents per hundred kilograms, wheat at 30 cents per hundred kilograms, flour at $1 per hundred kilograms; also a reduction of 50 per cent. of the duty on numerous other articles, especially manufactures.

With the British West Indies the agreement provided for the free admission into the United States of sugar, molasses, coffee, and hides from the islands, and the free admission into the islands from the United States of live animals, canned or dried beef, fish, eggs, machinery for agriculture, irrigation, and mining, carts and wagons, wire, railway material and locomotives, fertilizers, fruits, sewing machines and a large number of manufactures; also a reduction of 25 per cent. in the rates of duty on beef and pork, salted, and provisions, and of 50 per cent. on bacon and hams, lard, bread and biscuits, boots and shoes, shooks and staves, and other articles.

With the Dominican Republic and British Guiana, Nicaragua, Honduras, and Guatemala the provisions were similar to those with the British West Indies.

With Germany the agreement provided for the free admission into the United States of sugar, molasses, coffee, and hides from Germany, and the free admission into Germany from the United States of bran, flax, feathers, hides and skins, tan bark, also a large list of articles at a fixed rate of duty, but in all cases below the regular tariff rates — the list including breadstuffs, lumber, provisions, live animals, fruits, and certain manufactures. The agreement with Austria-Hungary

was similar in its general characteristics to that with Germany.

Applying to these twelve reciprocity agreements the practical test of their effect upon American exports, we find that in nearly every instance the sales of American goods in the countries affected, so far from increasing under the supposedly stimulating influence of reciprocity, actually fell off. There are two conspicuous exceptions — Cuba and Porto Rico. American exports to both of these islands increased under the treaty and fell off after its expiration.

But with Guatemala, American trade fell off $88,000 the first year of the operation of the agreement, and it rose about $900,000 the year after the agreement expired.

With Honduras exports from the United States dropped $44,000 the first year of the agreement, and rose $174,000 after the expiration of the agreement.

With Nicaragua, American exports fell off about $370,000 the first year of the agreement. They rose $136,000 the year after the agreement ceased to be operative, but they did not recover their former volume.

With Salvador there was a falling off of American exports to the amount of $56,000 the first year, but an increase of $120,000 the year after the agreement expired.

With the British West Indies the sales of American goods dropped $85,000 the first year, and the year after the agreement expired they were less by $360,000 than in the year before the agreement took effect.

With Santo Domingo exports from the United States fell off $4,300 the first year, but rose $341,600 the year after the agreement expired.

With Brazil trade remained nearly stationary in the first year of the agreement, registering the trifling increase of $171,600, or but a little more than 1 per cent. But the year after the agreement expired, American producers sold in Brazil $873,000 more than in the first year of the agreement.

With British Guiana a slight exception to the rule is to be noticed. There was an increase of $67,400 in exports from

the United States in the first year of the agreement, and the year after the agreement expired there was a loss of $295,000. But it is to be noticed also that the year after the expiration of the agreement found American exports smaller by $227,000 than in the year before the experiment began.

With Austria-Hungary our exports fell off nearly $1,000,000 during the first year of the agreement, shrinking to about one-third of their former proportions, but the year after the agreement expired they rose $1,550,000.

With Germany the exhibit is even more startling. In the first year of the operation of the agreement Germany bought of the United States about $22,000,000 less than in the year before the arrangement was made, while the year after the agreement expired our exports to the German market rose about $8,500,000.

It is hard to see how the advocates of reciprocity can make any serious attempt to reconcile these figures with the claim that reciprocity promotes the extension of American trade in foreign markets. Here are twelve agreements, in the case of only two of which is there any evidence to make good the claim, and in those two instances — Cuba and Porto Rico — there were exceptional influences at work which resulted later in making the one a protegé and the other a possession of the United States. For the others, if it were desired to establish the thesis that reciprocity operated as a kind of blight upon exports, there might be found much that would sustain the proposition, but not that of prosperity and trade expansion as the fruit of reciprocal trade agreements.

Reciprocity Agreements under the Act of 1897.

Under the Act of 1897 five agreements were made, all but one of which — that with Switzerland — are still in force.

Under the agreement with France the United States reduces the rate of duty on crude tartar from France to 5 per cent. ad valorem, on brandies or on other spirits to $1.75 a gallon, and also makes a reduction on still wines and vermuth and on paintings to 15 per cent. ad valorem; while the French government gives its minimum tariff rates to

canned meats, table fruits, dried fruits, lard, manufactured and prepared pork meats, ps, paving blocks, staves and logs, and sawed or squared timber and lumber from the United States.

To Germany the United States gives the same tariff rates as those named in the treaty with France on tartar, brandies, still wines, and paintings, and the German government gives to the United States the same tariff rates as those given to Belgium, Italy, Austria-Hungary, Roumania, Russia, and Switzerland during the existence of the present tariff treaties with them, and annuls its regulations regarding dried fruits from the United States, providing in their stead a system of inspection on account of the San Jose scale.

To Portugal and to Italy the United States makes the same reductions on crude tartar, brandies, wines, and paintings as are accorded to France and Germany; and the Portugese government gives to the United States as low rates of duty as those accorded to any other country except Spain and Brazil on breadstuffs, lard, mineral oils, agricultural implements, and certain machinery for manufacturing; while Italy makes a reduction of rates on imports from the United States of cotton-seed oil, fish, machinery, scientific instruments, fertilizers, and skins.

I append in a footnote[9] the official returns of American exports to these countries for the entire life of the treaties,

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[9] GERMANY.

(Under Act of 1897.)

(*Period of Agreement, July 13, 1900–* .)	
Year before (1900)	$187,347,889
First year (1901)	191,780,427
Second year (1902)	173,148,280
Third year (1903)	193,841,636
Fourth year (1904)	213,723,593

FRANCE.

(*Period of Agreement, June 1, 1898–* .)	
Year before (1898)	$95,459,290
First year (1899)	60,596,899
Second year (1900)	83,335,097
Third year (1901)	78,714,927
Fourth year (1902)	71,512,984
Fifth year (1903)	77,285,239
Sixth year (1904)	85,005,693

down to and including the fiscal year 1904. They exhibit a curious variety of results. In the case of Germany exports gained $4,333,000 in the first year of the treaty, but fell off $18,532,000 the second year. The third year they rallied to a little more than the first year's level, and in the fourth year they amounted to $22,400,000 more than in the first.

Exports from the United States to France dropped about $35,000,000 the first year, and after various ups and downs, never reaching the level of the year before the treaty took effect, they were, in 1904, almost $10,500,000 less than they were before the experiment was begun.

Exports to Italy rose about $1,200,000 the first year, and then fell away about $3,000,000. In 1904 they were about

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ITALY.

(*Period of Agreement, July 18, 1900–*.)

Year before (1900)	$33,256,620
First year (1901)	34,473,189
Second year (1902)	31,388,135
Third year (1903)	35,032,680
Fourth year (1904)	35,714,055

PORTUGAL.

(*Period of Agreement, June 12, 1900–*.)

Year before (1900)	$5,886,542
First year (1901)	5,294,240
Second year (1902)	3,045,651
Third year (1903)	3,652,194
Fourth year (1904)	1,935,078

SWITZERLAND.

(*Period of Agreement, June 1, 1899–March 23, 1900.*)

(This agreement was made in conformity with the "most favored nation" clauses of the treaty of 1850 between the United States and the Swiss Confederation, viz.: "Article 8. In all that relates to the importation, exportation, and transit of their respective products, the United States of America and the Swiss Confederation shall treat each other, reciprocally, as the most favored nation, union of nations, state or society, as is explained in the following articles:

"Article 9. Neither of the contracting parties shall impose any higher or other duties upon the importation, exportation, or transit of the natural or industrial products of the other than are or shall be payable upon the like articles, being the produce of any other country not embraced within its present limits.

"Article 10. In order the more effectually to attain the objects contemplated in Article 8, each of the contracting parties hereby engages not to grant any favor in commerce to any nation, union of nations, state or society which shall not immediately be enjoyed by the other party.")

Year before (1898)	$263,970
First year (1899)	267,732
Year after (1901)	255,360

$2,500,000 more than in the year before the treaty went into effect.

Trade with Portugal seems to have experienced a fatal blight under the treaty. American exports to that country dropped about $600,000 during the first year of the treaty. During the second year they fell off $2,200,000 more, and in 1904 they amounted to only $1,935,078 as compared with $5,886,542 in the year before the treaty went into effect.

As for Switzerland, which came under the reciprocity arrangement under a "favored nation clause" in an old treaty, our trade remained nearly stationary and unimportant. There was an increase of about $4,000 during the first year, and exports the year after the agreement expired were about $8,000 smaller than in the year before the treaty took effect.

Surely, taking all these experiments together, they furnish no ground for the claim that reciprocity agreements open the way for an expansion of American trade in foreign markets.

SUMMARY.

The foregoing examination of the relation of reciprocity treaties to the Constitution and laws of the United States and to the industrial and commercial welfare of its people has, in my opinion, established beyond refutation the following propositions:

First. That reciprocity treaties are unconstitutional. They are in conflict with the provisions of the Constitution which gives to the House of Representatives the right to originate revenue legislation and to Congress the power to lay and collect taxes, duties, and imposts, and to regulate commerce with foreign nations. The President has no right to initiate a trade treaty except under the express authorization of Congress. It is clear that the framers of the Constitution intended to keep the revenue-raising, duty-levying and commerce-regulating functions distinct from the treaty-making powers; and, if they failed to except trade agreements in express terms from the scope of the treaty-

making powers, it was because reciprocity treaties were at that time wholly unknown.

Second. That reciprocity treaties are objectionable because they substitute diplomacy for legislation, and the secret processes necessary in framing a political treaty are precisely those which are most unsuited to arrangements affecting the industries and revenues of a nation.

Third. That reciprocity treaties are a handicap to general tariff legislation and embarrass any readjustment of tariff rates.

Fourth. That such treaties involve discrimination and inequalities and are most unjust to our best customers.

Fifth. That reciprocity treaties tend toward free trade and are a thinly-veiled attack upon the principle of protection.

Sixth. That a study of the laws which govern the development of foreign trade shows reciprocity treaties to be unnecessary.

Seventh. That the present condition of our foreign trade is highly satisfactory.

Eighth. That there exists no popular desire for reciprocity treaties.

Ninth. That the absence of such desire is clearly explained by the fact that, in nearly all instances in which reciprocity agreements have been made between the United States and other countries, the agreements have not worked advantageously to American interests.

In the light of these considerations I submit that it is about time that the discussion of reciprocity should be transferred from the region of theory and sentiment to that of common sense and business sagacity.

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